

REMARKS

Claims 1-14 are currently pending in the application. Claims 1 and 8 are in independent form.

Claims 1-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by the Graham, et al. patent. Reconsideration of the rejection under 35 U.S.C. § 102(b), as anticipated by the Graham, et al. patent, as applied to the claims is respectfully requested. Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

In Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 U.S.P.Q. 81 (Fed. Cir. 1986) it was stated: "For prior art to anticipate under §102 it has to meet every element of the claimed invention."

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim."

The Office Action has held that the Graham, et al. patent discloses a method and business application for facilitating the exchange of information between vendors and seeker with the steps of: entering vendors' item records as listings in an electronically searchable data structure; searching the data structure on the basis of seeker queries generated by seekers; subsequent to matching a seeker's query with listings of one or more vendors making available the identity of the seeker for viewing by the vendors corresponding to the matched listings; and making available, for viewing by the seeker, the identity of the vendors. More specifically, the Graham, et al. patent discloses to a search engine where, upon the generation of a hit list during a search, the seeker is initially presented with the identity of the vendors and the location of their related websites (see col. 3). Subsequently, the seeker can enter the website and log in for a session (see col. 4, second para.). That is, the Graham, et al. patent teaches that the seeker logs into the website after the identity of the vendors be made available to the seeker, which is a direct teaching away from the present invention.

In addition, the Graham, et al. patent does not teach that the identity of the seeker is ever known by the vendor prior to making a purchase, but merely involves providing details of purchase interactions made by any given seeker to the vendor (see col. 4, second para.). Elaborating further, the Graham, et al. patent discloses the collaboration of data relating to the purchasing interactions of a number of seekers entering a vendors website (e.g. by using computer URLs) and does not involve identifying an individual seeker so that, for example, the vendor can compare the seeker with a list of nominated seekers who are not to be granted access to the vendor's records.

In contradistinction, the presently pending independent claims claim a method for facilitating the exchange of information between vendors and seekers. In particular, the exchange method requires that the identity of the seeker be provided to the vendors before the identity of the vendors be made available to the seeker (see para. 45). In this manner, the vendor can decide whether or not to disclose sensitive commercial information to the seeker based upon the identity of the seeker (see para. 8). Specifically, the claims have been amended to recite the feature of "making available the identity of the seeker for viewing by the vendors corresponding to the matched listings before making available the identity of said vendors for viewing by the seeker". This feature is not disclosed in the Graham, et al. patent. Since the method and device of the presently pending independent claims is neither disclosed nor suggested by the Graham, et al. patent, the presently pending independent claims are patentable over the Graham, et al. patent and reconsideration of the rejection is respectfully requested.

Claims 4-14, stand rejected under 35 U.S.C. §103(a) as obvious over the Graham, et al. patent in view of the Gardner, et al. patent. Reconsideration of the rejection under 35 U.S.C. §103(a) over the Graham, et al. patent in view of the Gardner, et al. patent, as applied to the claims is also respectfully requested.

The Office Action has held that the Graham, et al. patent teaches the claimed invention, but fails to explicitly disclose granting seekers access to the vendor's records and making available seeker and vendor contact details. It is

respectfully submitted that the Graham, et al. patent does not disclose the claimed invention, with or without the disclosure relating to granting seekers access to the vendor's records and making available seeker and vendor contact details, as detailed above.

The Office Action has held that the Gardner, et al. patent discloses the concept of processing electronic requisition with the step of providing for each vendor to nominate seekers who are not to be granted access to the vendor's records. However, when read more specifically, the Gardner, et al. patent discloses a technique for authorizing electronic purchasing of products between known vendors listed in a catalog and a seeker (i.e. requestor) reviewing the catalog (see lines 44 to 48 in col. 5) and is therefore a direct teaching away from the present invention. Further, the Gardner, et al. patent discloses a process for authorizing seekers to order products from the vendors and does not disclose or suggest that the identity of the seeker be provided to the vendors before the identity of the vendors are made available to the seeker. In fact, the Gardner, et al. patent does not disclose exchanging the identity of vendors and users.

In contradistinction, the presently pending independent claims claim a method for facilitating the exchange of information between vendors and seekers. In particular, the exchange method requires that the identity of the seeker be provided to the vendors before the identity of the vendors be made available to the seeker (see para. 45). In this manner, the vendor can decide whether or not to disclose sensitive commercial information to the seeker based upon the identity of the seeker (see para. 8). Specifically, the claims have been amended to recite the feature of "making available the identity of the seeker for viewing by the vendors corresponding to the matched listings before making available the identity of said vendors for viewing by the seeker". This feature is not disclosed in the Gardner, et al. patent.

As stated above, neither the Graham, et al. patent nor the Gardner, et al. patent disclose or suggest, alone or in combination, the invention as claimed in the presently pending independent claims. The Office Action has held that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the exchange of information disclosed in the Graham, et al. patent to include

the electronic requisition processing with company-specific rules as disclosed by the Gardner, et al. patent. It is respectfully submitted that the Gardner, et al. and Graham, et al. patents cannot be combined for the purposes of obviousness as each document is directed to completely a different problem. That is, the Graham, et al. patent discloses the collaboration of data relating to the purchasing interactions of a number of seekers entering a vendor's website whereas the Gardner, et al. patent discloses a process for authorizing seekers to order products from the vendors. Thus, there is no motivation for the combination of the patents nor is there a teaching in either patent for such a combination. Further, as the Graham, et al. patent was filed six months after the issuance of the Gardner, et al. patent, if it were obvious to combine the two technologies some reference to such a combination would have been made in the Graham, et al. patent. Additionally, the problems addressed by the cited patents are also completely different to that of the presently pending independent claims (which is outlined in the background section of the specification) and as such there is no motivation to one of skill in the art to look to an unrelated art for overcoming the problems addressed by the method and device of the presently pending independent claims.

Since the method and device of the presently pending independent claims is neither disclosed nor suggested, alone or in combination, by the prior art patents, the presently pending independent claims are patentable over the prior art patents and reconsideration of the rejection is respectfully requested.

WO2000/030051 (Wintriss) has also been cited in relation to an Australian Examiner's report dated 14 April 2005. An Information Disclosure Statement is attached hereto for submission.

The remaining dependent claims not specifically discussed herein are ultimately dependent upon the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above. The prior art references do not disclose the characterizing features of the independent claims discussed above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In view of the present amendment and foregoing remarks, reconsideration of the rejections and advancement of the case to issue are respectfully requested.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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